

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

The John Ernest Lucken Revocable Trust,
And John Lucken and Mary Lucken, Trustees
and Individually,

Plaintiffs,

v.

Heritage Bancshares Group, Inc., and
Heritage Bank National Association, and
Thomas Geiger, Gary Geiger, directors of
Heritage Bank, and Robert Mathiasen, Chief
Credit Officer of Heritage Bank,

Defendants.

Case No. 5:16-cv-4005

FINAL PRETRIAL ORDER

This final pretrial order was entered after a final pretrial conference held on March 28, 2018. The court expects the parties to comply fully with this order.

The following counsel, who will try the case, appeared at the conference:

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I. STIPULATIONS OF FACT: The parties agree that the following facts are true and undisputed:

- A. The most current financial information for Heritage Bank National Association, as of December 31, 2017, indicates that its total assets are \$412,119,000, the equity capital is \$39,250,000 and the annual net income was \$2,664,000.
- B. Sterling Crim was an employee of Heritage Bank from January 1, 2008 until October 4, 2012. He acted within the scope of his employment during that time.

II. EXHIBIT LIST:

JOINT EXHIBIT LIST

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
1	12/02/09-01/14/13 SBA Loan (No. 98214) Dirks Account Summary	JEL0055-0056	A			
2	01/19/12-12/12/12 Lucken Credit Line (No. 100881) Account Summary	JEL0095-0097	A			
3	SBA Eligibility Questionnaire for Standard Guaranty	DBN2586-2590, DBN2135	A			
4	SBA Application for Business Loan	DBN2644-2646, DBN2812,	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
		DBN0882-0883				
5	Debt Refinancing Justification/Calculation (Addendum E cont.)	DBN1012, DBN1014, DBN1015, DBN0882- 0883	A			
6	05/20/09 SBA Loan Processing Letter to Bank 08/25/09 Letter from Sterling Crim to SBA (providing information on request for loan guarantee)	JEL0021-0022, DBN2852-2853	A			
7	09/09/09 Letter from Sterling Crim to Dick Dirks (SBA response for information and clarification)	DBN2790-2791	A			
8	09/19/09 Letter from Sterling Crim to SBA - Connie Lovsletten (requested information)	DBN2788-2789	A			
9	09/21/09 Letter from SBA - Connie Lovsletten to Sterling Crim (not all info received)	DBN2785-2786	A			
10	10/02/09 Letter from Sterling Crim to SBA - Connie Lovsletten (providing additional information to continue processing loan)	SBA0758-0760	A			
11	10/06/09 SBA Authorization	DBN2456-2466, DBN2431	A			
12	10/08/09 SBA Modification Request	DBN2596-DBN2597, DBN2594-DBN2591	A			
13	12/07/09 SBA Settlement Sheet	DBN2621-2628, DBN2639	A			
14	10/25/09 Heritage Bank Appraisal Review Checklist	DBN2051-2053	A			
15	10/26/09 Vander Werff and Associates Appraisal	DBN1366-1368, DBN1374-1377, DBN1393-1394, DBN1400	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
16	SBA Submission Note (handwritten ledger)	DBN2013	A			
17	12/02/09 SBA Loan Agreement 12/14/09 SBA Note	DBN2859, DBN2713-2718	A			
18	12/02/09 SBA Lien Instrument Addendum 12/24/09 UCC Financing Statement	DBN2415-2420 DBN2421-2422	A			
19	12/14/09-12/17/09 Secondary Participation Guaranty Agreement	DBN2864-2870	A			
20	12/23/09 Email from Mark Danhoff to Sterling Crim (Loan Information, Guaranty)	DBN2672-DBN2673	A			
21	12/31/09 Loan Rating Worksheet	DBN2348	A			
22	12/31/09 Commercial Repayment Plan	DBN2365	A			
23	03/10/09 Credit Proposal Summary Sheet Annual Review – Dirks Motor Co.	DBN2342-2345	A			
25	09/19/11 Ford Credit letter to Heritage Bank (vehicles to be liquidated)	DBN2412-2413	A			
26	09/23/11 Ford Credit letter to Dirks Motor Company (extension of time to find alternate finance source)	DBN2408-2411	A			
27	09/29/11 Downgrade Request	DBN2346	A			
28	10/06/11 UCC Search	DBN2554-2565	A			
29	10/06/11 New York Life letter to Dirks (cash value/death benefit)	DBN1767-1768	A			
31	11/03/11 Default letter to Dirks	DBN2566-2567	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
32	11/17/11 PeoplesBank Money Order (1 st) \$250k	JEL0062	A			
33	11/17/11 PeoplesBank Statement (1 st) \$250k wire to Heritage)	JEL0063-0064	A			
34	11/17/11 Lucken bank wire for Dirks in the amount of \$250,000.00	DBN0001	A			
35	11/17/11 Cashier's Check payable to Ford Motor Credit	DBN0002-0003	A			
36	11/17/11 Cashier's Check payable to Dirks Motors	DBN0004-0005	A			
37	11/18/11 FedPayments Manager (Lucken wire)	DBN0357	A			
38	11/18/11 Docs list and tax returns requested by Heritage from Lucken 11/19/11 Lucken email to Crim transmitting docs and tax returns	JEL0067, nonbate stamped page, JEL0066	A			
39	11/23/11 Lucken's 2 nd \$250k check and receipt (proof of purchase)	JEL0068	A			
40	11/25/11 Commitment to Pay – GM	DBN0494, DBN0833	A			
41	11/29/11 Letter of Credit – Authorization from Dealer's Bank (Heritage to Ford Motor Company)	DBN0831-0832	A			
42	11/29/11 Ford Credit letter to Dirks (confirmed payoff)	JEL0082	A			
44	12/13/11 UCC Filings	DBN2325-2329	A			
46	01/19/12 "Lucken Credit Line" Note (signed copy without disbursement authorization)	JEL0087-0088	A			
48	01/19/12 Assignment of Lucken CD (Security for "Lucken Credit Line" Note	JEL0092-0094	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
49	01/19/12 "Lucken Credit Line" Trust Authorization	JEL0098-JEL0101	A			
50	01/23/12 Email from Sterling Crim to John Lucken (letter) 01/18/11 [sic] Lucken letter to Heritage Bank (authorization letter)	Not Bates Stamped JEL0102	A			
51	04/02/12 Default letter to Dirks	DBN2570-2571	A			
52	04/04/12-10/11/12 Gail Frank/Colson Services Corp. documents (payments, buyback)	DBN2738-DBN2740, DBN2732	A			
56	04/20/12 SBA Loan Review Checklist	DBN2776-2777	A			
57	04/24/12 Email exchange between Crim and Mathiasen (calling off liquidation/60 day extension to Dirks Motors)	DBN1758	A			
58	04/25/12 Email exchange between Crim to Wilkinson, Mathiasen, Weeks, Whipple and Frank (Dirks Motors' funds to make three payments on large SBA note)	DBN2751-2753	A			
59	04/25/12 Email from Crim to Dirks (accounting on Note)	DBN0362	A			
60	Email from Frank to 7aquestions@sba.gov and email exchange between Frank, Mathiasen, Wilkinson and Crim (Note modification)	DBN2746-2747	A			
61	Email exchange between Frank, Mathiasen, Crim and Wilkinson (SBA loan current)	DBN2749	A			
62	02/08/13 Fax from Whipple (Heritage) to Dirks (extension documents)	DBN0361-0372	A			
63	06/05/12 Problem Loan & Impairment Termination Report	DBN2347	A			
65	06/18/12 Personal Financial Statement (Richard Dirks, Sr.)	DBN2330-2331	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
68	01/18/13 Email from Whipple to Lucken (payoff)	JEL0108-0109	A			
69	01/18/13 Letter of Intent to acquire Dirks Motor Company	JEL0110-0115	A			
70	02/19/13 Sehnert letter to Lucken (right to set off)	JEL0125-0129	A			
73	02/25/13 Mathiasen response letter to Lucken (confirmation of 1 st \$250k but cannot share additional information)	JEL0139	A			
74	02/25/13 Email from Ballantyne to Mathiasen (cashier's checks) Email exchange between Ballantyne, Perrett and Mathiasen (wire for \$250,000)	DBN0723, DBN0729- DBN0730	A			
75	02/25/13 Vander Werff and Associates, Inc.'s Commercial Real Estate Appraisal – Dirks Motor Company (300 Hwy 12)	DBN1208-1210	A			
77	05/29/13 Email exchange between Marcus Walker and Dick Palmatier (request for further documentation)	DBN2038-DBN2039	A			
78	05/29/13 Email from Palmatier to Special Assets Team (SBA compromise)	DBN1992	A			
79	06/24/13 Email exchange between Marcus Walker and Dick Palmatier (finalize deal)	DBN1754-DBN1755	A			
81	06/07/13 James McGuire (McGuire Auction Co., Inc.) letter to Richard Palmatier (appraisal)	DBN0107-DBN0108	A			
82	06/24/13 Email from Marcus Walker (procedure/release mortgage, security agreement and assignments)	DBN1752	A			
83	07/03/13 Payments on Note 98214	DBN1780	A			
84	09/23/13 Payments on Note 98214	DBN1779	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
85	10/09/13 Request to Honor SBA 7(a) Loan Guaranty Regular 7(a) Guaranty Purchase Package Tabs	SBA0049, DBN2423	A			
86	[OMITTED]					
86(A)	[OMITTED]					
86(B)	11/30/11 Lender's Transcript of Account	DBN2201-2202, DBN2199-2200	A			
87	05/04/09 SBA Loan Guaranty	DBN2255-DBN2267	A			
88	SBA Loan Accounting	SBA0044-SBA0046	A			
89	12/12/13 Email from Palmatier to Mathiasen (request for additional information) 12/19/13 Email from Palmatier to Abbasi and Mathiasen (Borrower's Certification Form) 12/20/13 Email from Palmatier to Abbasi and Mathiasen (Borrower's Certification Form/status/requested information)	DBN2912-DBN2914	A			
90	01/09/14 Email exchange between Palmatier to Abbasi (update)	DBN2916	A			
91	02/04/14-02/05/15 Email exchange between Palmatier, Haus and Sherrill (SBA loan update/additional information needed)	DBN2918-DBN2923	A			
92	02/14/14-02/21/14 Email exchange between Palmatier, Sherrill and Haus (initial request for additional guaranty purchase information/docs)	SBA0038-SBA0040	A			
93	02/24/14 Email from Palmatier to Ballantyne (payment received)	DBN2924	A			
94	08/18/14 Email exchange between Palmatier and Mathiasen (payment/charge off of SBA note) 08/13/14-08/18/14 Various mail exchanges between Palmatier,	DBN2925-DBN2927	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
	Mikulcz, Special Assets Team, Posegate, and Mathiasen (pay off of remaining book balance)					
101	Debt Refinancing Addendum (Addendum E) 04/14/09 Promissory Note for \$125,100 (Heritage/Dirks) 07/21/09 Disbursement Authorization 10/09/09 Promissory Note for \$100,050 (Heritage/Dirks) 11/18/09 Cashier's Check to Dirks \$35,000 12/02/09 SBA Settlement Sheet	SBA0180-0181 DBN0952 DBN0955 DBN2178 DBN2643 DBN2177	A			
102	Debt Refinancing Justification/Calculation Addendum E – Supplement Attachment	DBN2813, DBN2135	A			
104	[OMITTED]					
105	[OMITTED]					
107	[OMITTED]					
108	[OMITTED]					
109	[OMITTED]					
110	11/17/11 Wire Transfer Request Form	JEL0173	A			
111	[OMITTED]					
113	02/27/13 Dirks' Waiver of Bank confidentiality	JEL0140	A			
115	Handwritten ledger: Note 100881	DBN0317-0318	A			
116	01/19/12-12/04/12 Loan Details re: Note 10081	DBN0176-DBN0178	A			
117	05/2012-07/2012 Heritage Bank/Lucken Statements	JEL0493-0495	A			
118	[OMITTED]					

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
119	[OMITTED]					
122	[OMITTED]					
123	[OMITTED]					
125	[OMITTED]					
129	08/01/11 Dirks fax to Ford Motor	FMCC0059- FMCC0062	A			
130	01/22/13 Email from Jenni Whipple to John Lucken re: original signed loan document/signed letter from John and Mary authorizing Dirks Motors to ACH drafts from line of credit	Not Bates Stamped	A			
132	04/2013 Asset Purchase Agreement (Dirks Motor Company and Total Motors)	DBN1699-DBN1701	A			
133	[OMITTED]					
134	[OMITTED]					
135	[OMITTED]					
137	[OMITTED]					
138 (P209) (D1008)	07/14/11 Letter from Sterling Crim to Dirks Motors Company re: Request for Dealer Floor Plan Line of Credit	FMCC 0062	A			
139 (P222) (D1021)	11/16/11 Email from Julie Hammitt to John Perry, et al (Ford) re: conversation with Dick Dirks re: offer of assistance from an unexpected source, Mr. Lucken	FMCC 0094	A			
140 (P223) (D1023)	11/18/11 Email from Julie Hammitt to John Perry (Ford) re: payoff from Dirks and inquiry as to reopening lines and negotiations with Heritage Bank to obtain floor planning	FMCC 0108	A			
141 (P224) (D1026)	12/07/11 Email exchange between Julie Hammitt to John Perry (Ford) re: Dirks status is officially closed; Heritage Bank now has his GM line floor planning and in process of handling Ford line	FMCC 0109-0110	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
142 (P234) (D1028)	02/28/13 Gail Frank SBA Loan Problem Loan Report	DBN3893	A			
143 (P207)	Ford Dealer Status Report ("DST") 04/01/11-12/01/11	FMCC 103-107	A			
144 (P208) (D1004)	Amy Whiting (FMC) Update Re: Dirks Motor 04/07/11	FMCC 0043-0045	A			
145 (P212) (D1018)	SBA Loan "CAD" Review & Collateral Analysis 09/28/11	DBN 3764-3767	A			
146 (P213)	SBA Loan Charge Off & Liquidation Action Plan 09/28/11	DBN 4024	A			
147 (P215)	Bank Board Minutes: Oct 2011, Nov 2011 and Jan 2012 10/20/11	DBN 3995-4003	A			
148 (P216) (D1019)	Ford notice and Demand Letter to Dirks 10/31/11	FMCC 0085	A			
149 (P217)	Brinkman (FMC) Report Re: New Floor Plan 11/01/11	FMCC 088-089	A			
150 (P229)	Gail Frank SBA Loan Problem Loan Report 08/31/12	DBN 3966	A			
151 (P230)	Gail Frank SBA Loan Problem Loan Report 11/30/12	DBN 3895	A			

PLAINTIFFS' EXHIBIT LIST

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
24	06/14/11 Termination of the "Formal Agreement" in the 1 st OCC and Heritage Enforcement Agreement (<u>Spicer, MN</u>)	JEL0059	A			
30	10/2011-11/2011 Handwritten Notes (Lucken meetings w/ Dirks)	JEL0060-0061	A			
43	12/08/11 Letter from Sterling Crim to Richard E. Dirks (application of \$4,119.18 as partial payment to Loan #98214)	DBN2323-DBN2324	A			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
45	[OMITTED]	DBN2405	Exhibit withdrawn at FPTC)			
47	01/19/12 "Lucken Credit Line" Note (unsigned copy w/ p.3 disbursement authorization)	JEL0089-JEL0091	A			
53	04/11/12 Email exchange between Frank, Whipple, and Sawatzky (loan liquidation/Note modification)	DBN2754-DBN2755	B	F.R.E. 401, 402, 403		NA
54	04/16/12 FedPayments Manager (Colson Services Corp wire)	DBN2730-DBN2731	A			
55	04/19/12 Dirks Motor Company Note 98214 Loan to Date	DBN2505-DBN2506	A			
66	06/19/12 Personal Financial Statement (David Dirks)	DBN2332-DBN2333	B	F.R.E. 401, 402, 403		NA
67	11/20/12 SBA Loan Charge Off Summary (handwriting redacted)	JEL0105-JEL0107, DBN0404	A			
71	02/22/13 Lucken Letter to Sehnert/Matiasen	JEL0133-JEL0135	B	F.R.E. 401, 408, 801, 802 Sustained Objection		NA
72	02/25/13 Lucken Letter to Mathiasen	JEL0137-JEL0138	B	F.R.E. 401, 402, 403, 408, 801, 802 Sustained objection		NA
76	05/21/13 Palmatier letter to SBA (O.I.C. proposal) SBA Tabs 1-8 (redacted)	DBN2041, DBN2028- 2035	A			
80	06/05/13 Email exchange between Marcus Walker	DBN1990	B	F.R.E. 408 (Motion in Limine)		NA
95	10/09/08 (1 st) OCC and Heritage Enforcement Agreement (Spicer, MN)	JEL0005-JEL0020	A	F.R.E. 401, 402, 403 (Motion in		

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
	Limited Use: MIL Ruling p. 17			Limine)		
96	OCC Agreement with Holstein	JEL0035-JEL0054	A	F.R.E. 401, 402, 403 (Motion in Limine)		
97	03/06/09 Promissory Note-Dirks/First National Bank	DBN0915-DBN0917	B	F.R.E. 401, 402, 403		NA
98	01/28/08 Promissory Note-Dirks/First National Bank	DBN0913-DBN0914	B	F.R.E. 401, 402, 403		NA
99	05/20/09 Extension Agreement	DBN0877-DBN0880	B	F.R.E. 401, 402, 403		NA
100	[OMITTED]					
112	02/21/13 Lucken email to Mathiasen	JEL0131-JEL0132	B	F.R.E. 408, 801, 802		NA
114	03/11/13 Lucken letter to Geiger	JEL0141-JEL0144	B	F.R.E. 408, 801, 802		NA
120	[OMITTED]					
125(P)	01/17/11-12/12/11 Lucken Accounting/Tax Records November 2011 Lucken Accounting/Tax Records	JEL0625-0627 JE0634-636	A			
126	[OMITTED]					
127	Dirks Financial Statement	DBN2349, DBN2350- DBN2351	A			NA
128	Heritage Bank's Loan Policy and Procedures October 2012	DBN3308-DBN3310, DBN3321, DBN3340, DBN3353- DBN3356	A			
131	07/25/11 OCC Termination (Holstein)	DBN3307	A	F.R.E. 401, 402, 403 (Motion in Limine)		
136	Resume of William M. Tank, Jr.	WP001316-WP001317	A			
200	Ford Dealer Agreement 07/10/87	DCM1 0069-0100	A			
201	Henges Report	DBN 1572-1573	B	F.R.E. 401, 402, 403, 801, 802		NA

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
202	11/14/08 FMCC Suspension	DMC1 0128	B	F.R.E. 401, 402, 403		NA
203	05/25/09 Dirks Financial Statement	DBN 3825-3826	A			NA
204	Wubben Pro Forma	DBN 1565-1571	A			NA
205	09/30/09 SBA Form	DBN 3867-3879	A			NA
206	Memo Re: Crim and Hegarty Visit to Dealership 01/27/11	DBN 3892	A			
207	[OMITTED]					
208	[OMITTED]					
209	[OMITTED]					
210	Total Commitment Letter 08/12/11	FMCC 0068	A			
211	Dirks Power of Attorney to Ford Credit 09/20/11	FMCC 0083	A			
212	[OMITTED]					
213	[OMITTED]					
214	[OMITTED]					
215	[OMITTED]					
216	[OMITTED]					
217	[OMITTED]					
218	Total Motors Letter of Intent 11/02/11	JEL 590-593	A			
219	Total Motors Draft Asset Purchase Agreement 11/02/11	JEL 594-598	A			
220	FMCC Demand on GM 11/02/11	FMCC 0090-0091	A			
221	Hammitt (FMC) Request for Total Amount Due 11/04/11	FMCC 0092-0093	A			
222	[OMITTED]					

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered	A/NA
223	[OMITTED]					
224	[OMITTED]					
225	Lucken CD Documents 11/23/11	JEL 068-081	A			
226	Ford Release of Assignment 12/07/11	FMCC 0102	A			
227	[OMITTED]					
228	Email exchange between Mathiasen and Crim 08/24/12	DBN 2001-2002	A			
229	[OMITTED]					
230	[OMITTED]					
231	Bank file comments re Dirks Motor 01/16/13	DBN 4004-4008	A			
232	[OMITTED]					
233	Bank file comments re Lucken 01/29/13	DBN 4009-4011	A			
234	[OMITTED]					
235	Total Motors purchase of Dirks Motor Closing Sheet 07/02/13	DBN 3282-3283	A			
236	New York Life (policy no. 876) Summary 02/01/17	Not Bates Stamped	A			
237	Cabelas Statement	JEL0656-57	A			
238	[OMITTED]					
239	01/19/12 "Lucken Credit Line" Note (signed copy with disbursement authorization)	DBN 521-526	A			
240	09/10/2010 Letter from MetLife to Sterling Crim	WP003730	A			
241	05/31/13 Problem Loan Report	DBN3967	A			

DEFENDANTS' EXHIBIT LIST

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered		A/NA
45(D)	12/13/11 Dirks Motor Company/TGAG, LLC/Capital Business Solutions (Letter of Intent)	DBN2405	B	802, incomplete - unsigned			NA
64	06/11/12 HL Lender Resources letter to Gail Frank and documents reviewed	DBN2771-2772, DBN2778	A				
76(D)	05/21/13 Palmatier letter to SBA (O.I.C. proposal) SBA Tabs 1-8 (unredacted)	DBN2041, DBN2028- 2035	B	Fed. R. Civ. P. 37(c)(1), motion in limine, 802 (if witness does not testify)			
103	John E. Lucken Brief Resume	JEL0333	A	402, 403, 508, Motions in Limine			
106	11/08/11 Lucken Farms Balance Sheet 01/01/11-11/08/11 Lucken Farms Profit & Loss 01/01/11-11/21/11 Lucken Farms Profit & Loss 11/08/11 John Ernest Lucken Revocable Trust Balance Sheet 11/08/11 John E. Lucken Balance Sheet 01/01/11-11/08/11 John E. Lucken Profit & Loss 01/01/11-11/08/11 Lucken Family LLLP Profit & Loss Prev Year Comparison MIL Ruling p. 50 (denied)	DBN0267-0268 DBN0269-0270 DBN0271-0272 DBN0273-0274 DBN0275-0276 DBN0277-0279 DBN0280-0281	A	402, 403, 508, Motions in Limine			
121	09/23/13 Conditional Assignment and Release Agreement	JEL0611-0624	A	402 403, ,508			
124	01/22/13	JEL0422-0423	A	402, 403,			

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered		A/NA
	Lucken's email to Peterson (letter to Dirks requesting info) MIL Ruling p. 46			Motions in Limine			
125(D)	01/31/12-03/20/12 Lucken Accounting/Tax Records 2013-2016 Lucken Accounting/Tax Records MIL Ruling p. 50 (denied)	JEL0625-0627 JEL----illegible-0633	A	402, 403, 408, Motions in limine			
1001	[OMITTED]						
1002	[OMITTED]						
1003	04/19/10 Heritage documentation for loan – Dirks Motor Co.	DBN3965	A				
1004	[OMITTED]						
1005	04/08/11 Email from Amy Whiting to Paul Yarbrough, et al (Ford) re: Dirks Motor Company Update	FMCC 0046-0047	A				
1006	05/19/11 Forbearance Agreement between Ford Motor Credit Company and Dirks Motor Company	FMCC 0025-0032	A				
1007	Amended Forbearance Agreement	FMCC 0023-0024	A				
1008	[OMITTED]						
1009	07/27/11 Email exchange between Geoffrey Jackson, Richard Ganard, Jeff McLaughlin, and Julie Hammitt re: Dirks' meeting with GM re wholesale floor planning	FMCC 0058	A				
1010	[OMITTED]						
1011	Undated letter from Ford Credit to Richard Dirks re: extension for payment of the Sold out of Trust (SOT) amount; commitment letter must be received by August 15, 2011 with a payoff by September 15, 2011	FMCC 0063	A				
1012	08/03/11 Letter from RE Dirks to Mr. Ganard (Ford) re: response to August 2, 2011 letter and	FMCC 0064	A				

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered		A/NA
	trying to obtain bank financing						
1013	08/09/11 Email exchange between John Perry, Richard Ganard, Geoffrey Jackson, et al (Ford) re: Dirks Motor Company Floor Plan Action	FMCC 0065-0066	A				
1014	08/11/11 Email from Geoffrey Jackson to Richard Ganard, et al (Ford) re: conversation with Dick Dirks re: first choice, SBA; second choice, buy-sell	FMCC 0067	A				
1015	08/24/11 Email from Geoffrey Jackson to Richard Ganard, Jeff McLaughlin and Julie Hammitt re: Dirks' conversation with Mike Poindexter, GM Zone Manager, re merger of Total Sales	FMCC 0072	A				
1016	09/09/11 Voluntary Surrender between Ford Motor Credit Company and Dirks Motor Company	FMCC 0077	A				
1017	[OMITTED]						
1018	[OMITTED]						
1019	[OMITTED]						
1020	04/12/11-11/08/11 Ford Status Reports	FMCC 0105-0107	A				
1021	[OMITTED]						
1022	11/18/11 Dealer Credit Check Log	FMCC 0095-0096	A				
1023	[OMITTED]						
1024	11/28/11 Letter from Ford Credit (John Austin) to Dave Macha (GM) re: blanket wholesale financing commitment for Dirks Motor has been permanently withdrawn	FMCC 0004	A				
1025	[OMITTED]						
1026	[OMITTED]						
1027	01/15/13 Email from John Lucken to Bill Peterson re: John Lucken's letter to Richard Dirks	WP003018-003020	A				

NO.	EXHIBIT	BATES	Category A, B, C	Obj.	Offered		A/NA
	MIL Ruling p. 46						
1028	[OMITTED]						
1029	05/30/13 Email from Dick Palmatier to Don Matthews re: keep plan A moving forward as a compromise, which will require a valuation of equipment	DBN2883	B	802 (if witness does not testify)			
1030	[OMITTED]						
1031	06/06/13 Email from Dick Palmatier to Special Assets Team re: McGuire Auction evaluation	DBN2884	B				
1032	Resume of Kevin J. Welte	DBN3293-3295	A				
1033	Resume of Greg S. Burger	DBN3301-3302	A				
1034	Resume of Thomas W. Harbison and John R. Langin	DBN3304-3306	A	402, 403; (subject to ruling on Motion in limine)			
1035	12/19/11 UCC Financing Statement – Diligenz, Inc./Dirk Motors	DBN4075	A	Fed. R. Civ. P. 37(1)(c); 802, Motions in limine			
1036	10/14/10 Credit File Documentation Checklist	DBN2322	A				
1037	12/07/11 UCC Financing Statement Amendment Ford Motor Credit Company/Dirks Motor Company	DBN0006	A	FRE 402, 403, 802 Objections overruled at FPTC			
1038	09/30/13 UCC Financing Statement Termination Ford Motor Credit Company	DBN4076	A	Fed. R. Civ. P. 37(1)(c); FRE 402, 403, 802 Objections overruled at FPTC			

III. WITNESS LIST: The parties intend to call the following witnesses at trial:

A. Plaintiff's witnesses

1. John Lucken
13657 Hwy 3
Akron, IA 51001

Mr. Lucken will testify live at trial regarding the facts and circumstances surrounding his claims and damages, his meetings with Richard Dirks in or around September and October of 2011, his meetings with Richard Dirks and Sterling Crim of Heritage Bank in or around November of 2011, and his meetings and other interactions with Crim and Heritage in or around January of 2012. Mr. Lucken will also testify consistently with his deposition.

2. Richard Dirks
551 North Street
Akron, IA 51001

Mr. Richard Dirks will testify live at trial to his knowledge of Dirks Motor's history, operations, and finances, as well as Dirks Motor's dealings with Heritage Bank, including, but not limited to, Heritage's loans to Dirks Motor, including the SBA Loan. He will also testify to his meetings, communications, and relationship with Mr. Lucken, his meetings and communications with Mr. Lucken, and Heritage, and the closing and sale of Dirks Motor. Mr. Richard Dirks will also testify as to topics and matters he was previously examined on in his deposition.

3. William M. Tank, Jr.
QCR Holdings, Inc.
3551 7th Street
Moline, IL 61265

Mr. Tank will testify consistently with the expert witness disclosure previously provided, which is incorporated by reference herein. He will testify about his experience in the banking industry, including his understanding of what constitutes "unusual" banking practices or procedures.

4. David Dirks
1010 37th Street
Sioux City, Iowa 51104

Mr. David Dirks will testify to his knowledge of Dirks Motor's history, operations, and finances, as well as Dirks Motor's dealings with Heritage Bank, including, but not limited to, Heritage's loans to Dirks Motor, including the SBA Loan, and the closing and sale of Dirks Motor.

5. Sterling Crim
1525 Douglas Street
Sioux City, Iowa 51105

Mr. Crim a former Senior Vice President for Heritage Bank, will testify to his knowledge of Dirks

Motor, its business dealings with Heritage, including, but not limited to, Bank loans to Dirks Motor, specifically the SBA Loan. Mr. Crim will also testify to Heritage's business dealings with Lucken, including meetings between Heritage, Lucken, and Richard Dirks, and meetings between Crim and Lucken. Mr. Crim will also testify as to topics and matters he was previously examined on in his deposition.

[WITHDRAWN]

6. Richard Dirks, Jr.
331 North 9th Street
Akron, Iowa 51001

Mr. Richard Dirks Jr. may testify to his knowledge of Dirks Motor's history, operations, and finances, as well as Dirks Motor's dealings with Heritage Bank, including, but not limited to, Heritage's loans to Dirks Motor, including the SBA Loan, and the closing and sale of Dirks Motor.

7. Based on the Stipulation on Deposition portions to be read to the jury from Dave Hegarty, Jennifer Whipple and Dick Palmatier and the Stipulation on Punitive Damages, Plaintiff will not call any of the witnesses previously identified on its submission to Defendants. See Attached Combined Designation of Deposition Parts.

B. Defendants' witnesses

1. Robert Mathiasen
310 1st Street SW
Willmar, MN 56201

Robert Mathiasen is Heritage's Chief Banking Officer. Mr. Mathiasen is expected to testify regarding the bank's interactions with Mr. Dirks and Mr. Lucken. He will testify regarding the SBA guaranteed loan to Dirks Motor Company. He will further testify regarding the bank's liquidation of Dirks Motor Company.

2. Richard Palmatier
310 1st Street SW
Willmar, MN

Mr. Palmatier is Heritage's Vice President in Sioux City, Iowa. He will testify regarding the bank's liquidation of Dirks Motor Company. He will testify regarding the SBA guaranteed loan to Dirks Motor Company. He is expected to testify consistent with his deposition.

3. Sterling Crim
1525 Douglas Street
Sioux City, IA 51105

Sterling Crim was a loan officer at Heritage from 2008-2012. He will testify regarding the SBA guaranteed loan to Dirks Motor Company. He will testify regarding his interactions with Dick

Dirks and John Lucken including Lucken's injection of \$500,000.00 on Dirks Motor Company's behalf. He will further testify regarding the bank's liquidation of Dirks Motor Company. He is expected to testify consistent with his deposition.

4. Greg Burger
1204 Northview Dr.
Luverne, MN 56156

Greg Burger is a banker. He will testify as an expert regarding the SBA guaranteed loan to Dirks Motor Company and liquidation of Dirks Motor Company. He will testify consistent with his expert report.

5. Kevin Welte
2738 Glen Ellen Road
Sioux City, IA 51106

Kevin Welte is a consultant and former CFO of a local automobile dealer. He will testify consistent with his expert report.

6. Tom Harbison
PO Box 96
Adel, IA 50003

Tom Harbison is an SBA consultant. He is expected to testify regarding the SBA guaranteed loan. He will testify consistent with his expert report.

IV. RESTRICTIONS ON WITNESSES: A witness who may testify at the trial or at an evidentiary hearing must not be permitted to hear the testimony of any other witnesses before testifying, and is excluded from the courtroom during the trial or hearing until after the witness has completed his or her testimony, unless exclusion of the witness is not authorized by Federal Rule of Evidence 615 or unless the court orders otherwise. A witness who is excluded from the courtroom pursuant to this paragraph also is prohibited from reviewing a record of the testimony of other witnesses at the trial or hearing until after the witness has completed his or her testimony, unless the court orders otherwise.

Unless the court orders otherwise, after the commencement of the trial, and until the conclusion of the trial, a witness who may testify at the trial is prohibited from communicating with anyone about what has occurred in the courtroom during the trial. If the witness does testify at the trial or hearing, after the witness is tendered for cross-examination and until the conclusion of the witness's testimony, the witness is prohibited from communicating with anyone about the subject matter of the witness's testimony. A witness may, however, communicate with his or her attorney about matters of privilege, and may communicate with anyone if the right to do so is guaranteed by the United States Constitution.

These prohibitions do not apply to the parties or a party representative. An attorney who may call a witness to testify at trial must, before the trial, advise the witness of these restrictions as well as the court's ruling on any motions in limine.

V. EVIDENTIARY AND OTHER LEGAL ISSUES:

Joint Requests:

- A. The Court, not the jury, should address Plaintiffs' equitable claims of contract rescission and unjust enrichment and Defendants' claim of offset.

VI. COURTROOM TECHNOLOGY: The parties have participated in the Court's Technology training on March 19, 2018.

VII. OPENING STATEMENTS; CLOSING ARGUMENTS: The parties agree with the time limits previously established by the court.

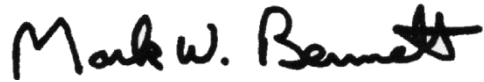
VIII. PROTOCOL FOR WITNESSES: Counsel who may call a witness to testify at trial must, before the witness testifies, advise the witness of the accepted protocol for witnesses testifying in this court. This advice should include the following information: (1) the location of the witness box; (2) the proper route from the courtroom door to the witness box; (3) the fact that the witness will be placed under oath; (4) where the witness should stand while the oath is being administered; (5) that the witness should adjust the witness chair and the microphone so the microphone is close to and directly in front of the witness's mouth; (6) that the witness should speak only in response to a question; (7) that the witness should wait for a ruling on any objections before proceeding to answer a question; (8) that the witness should answer all questions verbally; and (9) that substances such as food, beverages, and chewing gum should not be brought into the courtroom.

Counsel must advise witnesses of proper dress for the courtroom. Proper dress does not include blue jeans, shorts, overalls, T-shirts, shirts with printed words or phrases on the front or back, tank tops, or the like. The testimony of any witness who appears in court in the presence of the jury in attire prohibited by this order may be barred.

IX. DEMONSTRATIVE AIDS: At least 3 days before trial, counsel using a demonstrative aid must show it to all other counsel and the judge. The term "demonstrative aid" includes charts, diagrams, models, samples and animations, but does not include, exhibits admitted into evidence, or outlines of opening statements or closing arguments. Any disputes or objections concerning demonstrative aids shall be brought to the court's attention and resolved before the demonstrative aid is displayed to the jury.

IT IS SO ORDERED.

DATED this 2nd day of April, 2018.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive style with a horizontal line extending from the end of the name.

MARK W. BENNETT
U.S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA